

LOCAL COMMUNITY RADIO ACT OF 2009

DECEMBER 14, 2009.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WAXMAN, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

[To accompany H.R. 1147]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 1147) to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Local Community Radio Act of 2009”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The passage of the Telecommunications Act of 1996 led to increased consolidation of ownership in the radio industry.

(2) At a hearing before the Committee on Commerce, Science, and Transportation of the Senate on June 4, 2003, all 5 members of the Federal Communications Commission testified that there has been, in at least some local radio markets, too much consolidation.

(3) In part due to consolidation of media ownership, there have been strong financial incentives for some companies to reduce local programming and rely instead on syndicated programming produced for hundreds of stations, though noncommercial educational radio stations, including FM translator stations, currently provide important local service, as do many commercial radio stations. A renewal of commitment to localism—local operations, local research, local management, locally originated programming, local artists, and local news and events—would bolster radio’s service to the public.

(4) Local communities have sought to launch radio stations to meet their local needs. However, due in part to the scarce amount of spectrum available and the high cost of buying and running a large station, many local communities are unable to establish a radio station.

(5) In 2003, the average cost to acquire a commercial radio station was more than \$2,500,000.

(6) In January 2000, the Federal Communications Commission authorized a new, affordable community radio service called “low-power FM”, or “LPFM”, to “enhance locally focused community-oriented radio broadcasting”.

(7) Through the creation of LPFM, the Federal Communications Commission sought to “create opportunities for new voices on the airwaves and to allow local groups, including schools, churches, and other community-based organizations, to provide programming responsive to local community needs and interests”.

(8) The Federal Communications Commission made clear that the creation of LPFM would not compromise the integrity of the FM radio band by stating, “We are committed to creating a low-power FM radio service only if it does not cause unacceptable interference to existing radio service.”

(9) Currently, FM translator stations can operate on the second- and third-adjacent channels to full-power radio stations, up to an effective radiated power of 250 watts, pursuant to part 74 of title 47, Code of Federal Regulations, using the very same transmitters that LPFM stations will use. The Federal Communications Commission based its LPFM rules on the actual performance of these translators, which already operate without undue interference to FM stations.

(10) Small rural broadcasters were particularly concerned about a lengthy and costly LPFM interference complaint process. Therefore, in September 2000, the Federal Communications Commission created a process to address interference complaints regarding LPFM stations on an expedited basis.

(11) In December 2000, Congress delayed the full implementation of LPFM until the Federal Communications Commission commissioned and reviewed an independent engineering study. This action was due to some broadcasters’ concerns that LPFM service would cause interference in the FM radio band.

(12) The Federal Communications Commission granted licenses to over 800 LPFM stations despite the congressional action. These stations are currently on the air and are run by local government agencies, groups promoting arts and education to immigrant and indigenous populations, artists, schools, religious organizations, environmental groups, organizations promoting literacy, and many other civically oriented organizations.

(13) After 2 years and the expenditure of \$2,193,343 in taxpayer dollars, the independent engineering study commissioned by the Federal Communications Commission concluded that concerns about interference on third-adjacent channels were unwarranted.

(14) The Federal Communications Commission issued a report to Congress on February 19, 2004, which stated that “Congress should readdress this issue and modify the statute to eliminate the third-adjacent channel distance separation requirement for LPFM stations.”

(15) On November 27, 2007, the Federal Communications Commission again unanimously affirmed LPFM, stating in a news release about the adoption of the Low-Power FM Third Report and Order and Second Notice of Proposed Rulemaking that the Federal Communications Commission recommends “to Congress that it remove the requirement that LPFM stations protect full-power stations operating on third-adjacent channels”. Until the date of enactment of this Act, Congress had not acted upon that recommendation.

(16) Minorities represent almost a third of the population of the United States. However, according to the Federal Communications Commission’s most recent Form 323 data on the race and gender of full-power, commercial broadcast licensees, minorities own only 7 percent of all local television and radio stations. Women represent more than half of the population but own only 6 percent of all local television and radio stations. LPFM stations, while not a solution to the overall inequalities in minority and female broadcast ownership, provide an additional opportunity for underrepresented communities to operate a station and offer local communities a greater diversity of viewpoints and culture.

(17) LPFM stations have proven to be a vital source of information during local or national emergencies. Out of the few stations that were able to stay on the air during Hurricane Katrina, several were LPFM stations. In Bay St. Louis, Mississippi, low-power FM station WQRZ remained on the air during Hurricane Katrina and served as the Emergency Operations Center for Hancock County. After Hurricane Katrina, when thousands of evacuees temporarily housed at the Houston Astrodome were unable to hear over the loudspeakers information about the availability of food and ice, the location of Federal Emergency Management Agency representatives, and the whereabouts of missing loved ones, volunteers handed out thousands of transistor radios and established an LPFM station outside of the Astrodome to broadcast such information.

SEC. 3. AMENDMENT.

Section 632 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (Public Law 106–553; 114 Stat. 2762A–111), is amended to read as follows:

“SEC. 632. (a) The Federal Communications Commission shall modify the rules authorizing the operation of low-power FM radio stations, as proposed in MM Docket No. 99–25, to—

“(1) prescribe protection for co-channels and first- and second-adjacent channels; and

“(2) prohibit any applicant from obtaining a low-power FM license if the applicant has engaged in any manner in the unlicensed operation of any station in violation of section 301 of the Communications Act of 1934 (47 U.S.C. 301).

“(b) Any license that was issued by the Commission to a low-power FM station prior to the date on which the Commission modifies its rules as required by subsection (a) and that does not comply with such modifications shall be invalid.”.

SEC. 4. MINIMUM DISTANCE SEPARATION REQUIREMENTS.

The Federal Communications Commission shall modify its rules to eliminate third-adjacent minimum distance separation requirements between—

(1) low-power FM stations; and

(2) full-service FM stations, FM translator stations, and FM booster stations.

SEC. 5. PROTECTION OF RADIO READING SERVICES.

The Federal Communications Commission shall provide third-adjacent channel protection for full-power noncommercial FM stations and noncommercial FM translator and booster stations that broadcast radio reading services via an analog sub-carrier frequency from potential low-power FM station interference.

SEC. 6. ENSURING AVAILABILITY OF SPECTRUM FOR LOW-POWER FM STATIONS.

The Federal Communications Commission, when licensing FM translator and low-power FM stations, shall ensure—

(1) that licenses are available to both FM translator stations and low-power FM stations; and

(2) that such decisions are made based on the needs of the local community.

SEC. 7. PROTECTION OF TRANSLATOR INPUT SIGNALS.

The Federal Communications Commission shall modify its rules to address the potential for predicted interference to FM translator input signals on third-adjacent channels set forth in section 2.7 of the technical report entitled “Experimental Measurements of the Third-Adjacent Channel Impacts of Low-Power FM Stations, Volume One—Final Report (May 2003)”.

SEC. 8. ENSURING EFFECTIVE REMEDIATION OF INTERFERENCE.

The Federal Communications Commission shall modify the interference complaint process described in section 73.810 of its rules (47 CFR 73.810) as follows:

(1) For a period of one year after a new low-power FM station is constructed on a third-adjacent channel, the low-power FM station shall be required to broadcast periodic announcements that alert listeners that interference that they may be experiencing could be the result of the operation of the new low-power FM station on a third-adjacent channel and shall instruct affected listeners to contact the low-power FM station to report any interference. The Federal Communications Commission shall require all newly constructed low-power FM stations on third-adjacent channels to—

(A) notify the Federal Communications Commission and all affected stations on third-adjacent channels of interference complaints; and

(B) cooperate in addressing any such interference.

(2) Low-power FM stations on third-adjacent channels shall be required to address complaints of interference within the protected contour of an affected station and shall be encouraged to address all other interference complaints, including complaints to the Federal Communications Commission based on interference to a full-service FM station, an FM translator station, or an FM booster station by the transmitter site of a low-power FM station on a third-adjacent channel at any distance from the full-service FM station, FM translator station, or FM booster station.

(3) To the extent possible, the Federal Communications Commission shall grant low-power FM stations on third-adjacent channels the technical flexibility to remediate interference through the colocation of the transmission facilities of the low-power FM station and any stations on third-adjacent channels.

(4) The Federal Communications Commission shall—

(A) permit the submission of informal evidence of interference, including any engineering analysis that an affected station may commission;

(B) accept complaints based on interference to a full-service or FM translator station by the transmitter site of a low-power FM station on a third-adjacent channel at any distance from the full-service or FM translator station; and

(C) accept complaints of interference to mobile reception.

PURPOSE AND SUMMARY

H.R. 1147, the “Local Community Radio Act of 2009”, was introduced on February 24, 2009, by Reps. Mike Doyle (D-PA) and Lee Terry (R-NE). H.R. 1147 would expand the ability of the Federal Communications Commission (FCC) to license low-power FM (LPFM) radio stations while protecting full-power FM stations from any potential or actual interference.

BACKGROUND AND NEED FOR LEGISLATION

In 2000, the FCC authorized the creation of a new class of radio services, known as LPFM, to be operated by community-based non-profit groups, educational and religious organizations, and public safety and transportation agencies.¹ LPFM radio services are limited to noncommercial educational programming and must operate at less than 100 watts, with a preference given to licenses for stations that are locally owned and offer locally-originated programming. LPFM stations must also afford interference protection to full-power FM stations and to FM translator and booster stations.

When the FCC first adopted its LPFM rules, it determined that an LPFM station broadcasting on a “third-adjacent channel” to a full-power FM station would not cause significant interference to the full-power station. For example, if a full-power FM station was operating at 101.1 FM, the initial FCC rules would have allowed an LPFM station to broadcast from either 101.7 FM or 100.5 FM

¹ Federal Communications Commission, Creation of Low Power Radio Service (MM Docket No. 99–25 Report and Order), 15 FCC Rcd 2205 (2000).

(the third channels up and down the radio dial from 101.1 FM), subject to a set of complaint and license modification procedures to address any unexpected interference problems.² Contrary to its approach regarding co-, first-, or second-adjacent channels, the Commission declined to impose minimum distance separation requirements for LPFM stations operating on third-adjacent channels to protect full-power FM stations, deeming such requirements unnecessarily restrictive.

Before the FCC was able to implement fully its decision, however, Congress inserted a provision in the Fiscal Year 2001 Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act (“the Act”) requiring the FCC to: (1) prescribe minimum distance separation requirements for third-adjacent channels; (2) hire an independent engineering firm to further study possible interference between full-power FM stations and LPFM stations operating on a third-adjacent channel; and (3) report the findings and any recommendations to Congress.³ As a result of the spacing requirements imposed by the Act, the FCC dismissed over 600 pending LPFM applications, mostly from larger metropolitan areas.

In 2001, the Commission selected the Mitre Corporation as the independent third party to perform a study of LPFM interference to full-power FM stations. After two years and over \$2 million in field tests and experimental programs, Mitre Corporation concluded in a report titled *Experimental Measurements of the Third-Adjacent Channel Impacts of Low-Power FM Stations, Volume One: Final Report*, (Mitre study) that there is a “lack of measurable interference produced by third-adjacent channel LPFM stations.”⁴

In February 2004, the FCC submitted its report to Congress, recommending that, based on the Mitre study, Congress “modify the statute to eliminate the third-adjacent channel distan[ce] separation requirements for LPFM stations.”⁵ Subsequently, legislation was introduced in the House and the Senate during the 108th, 109th, and 110th Congresses to implement the FCC’s recommendations to expand the availability of LPFM radio licenses.

LEGISLATIVE HISTORY

On February 24, 2009, Representatives Doyle and Terry introduced H.R. 1147, the Local Community Radio Act of 2009. The Subcommittee held a legislative hearing on H.R. 1147 on June 11, 2009. The Subcommittee heard from witnesses representing the National Association of Broadcasters, the Federal Communications Commission, Consumer Union, and the United Church of Christ, Office of Communications.

²Federal Communications Commission, *Creation of a Low Power Radio Service*, Memorandum Opinion and Order on Reconsideration, 15 FCC Rcd 19208 (2000).

³Pub. L. No. 106–553, § 1A632, 114 Stat. 2762A–111 (2000).

⁴Federal Communications Commission, *Comment Sought on the Mitre Corporation’s Technical Report, Experimental measurements of the Third-Adjacent Channel Impacts of Low-Power FM Stations* (Public Notice), 18 FCC Rcd. 14445 (2003).

⁵Federal Communications Commission, *Report to Congress on the Low Power FM Interference Testing Program* (Pub. L. No. 106–553) (Feb. 19, 2004). See also Federal Communications Commission, *Press Release: FCC Adopts Rules to Promote the Growth of the Low Power FM Radio Service* (Nov. 27, 2007) (unanimously reaffirming its recommendation to Congress “that it removes the requirement that LPFM stations protect full-power stations on operating on the third-adjacent channels”).

COMMITTEE CONSIDERATION

On October 8, 2009, the Subcommittee on Communications, Technology, and the Internet met in open markup session to consider and subsequently forward H.R. 1147, amended, to the full Committee by a voice vote.

The full Committee met in open markup session on October 15, 2009, to consider H.R. 1147, and subsequently ordered reported H.R. 1147, as amended by the Subcommittee, by a voice vote. There were no amendments offered at full Committee.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. A motion by Mr. Waxman to order H.R. 1147 favorably reported to the House, as amended, was agreed to by a voice vote. There were no recorded votes taken during consideration and passage of H.R. 1147.

STATEMENT OF COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee are reflected in the descriptive portions of this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of budget authority and revenues regarding H.R. 1147 prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. The Committee finds that H.R. 1147 would result in no new or increased entitlement authority, or tax expenditures or revenues.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of the Committee are reflected in the descriptive portions of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 1147. Article I, section 8, clauses 3 and 18 of the Constitution of the United States grants the Congress the power to enact this law.

EARMARKS AND TAX AND TARIFF BENEFITS STATEMENT

H.R. 1147 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., section 5(b).

APPLICABILITY OF LAW TO THE LEGISLATIVE BRANCH

The Committee finds that H.R. 1147 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of Section 102(b)(3) of Public Law 104-1.

FEDERAL MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement on whether the provisions of the report include unfunded mandates. In compliance with this requirement the Committee adopts as its own the estimates of federal mandates prepared by the Director of the Congressional Budget Office.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate on H.R. 1147 prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1147 from the Director of the Congressional Budget Office:

OCTOBER 28, 2009.

Hon. HENRY A. WAXMAN,
Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1147, the Local Community Radio Act of 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 1147—Local Community Radio Act of 2009

H.R. 1147 would amend rules that limit the number of low-power radio stations that may be licensed by the Federal Communications Commission (FCC). Low-power stations are operated by non-commercial entities and broadcast very weak signals (100 watts or less) that reach a limited geographic area. The bill would repeal some engineering requirements that currently limit the number of low-power radio stations that can operate in certain areas and would direct the FCC to ensure the availability of radio spectrum for both low-power FM stations and stations that translate FM signals initially transmitted by other stations (known as FM translators).

CBO estimates that implementing the bill would have no significant effect on the federal budget. Easing restrictions on low-power radio stations would probably increase the number of applications for such licenses. Based on information from the FCC, CBO estimates that the administrative costs of processing additional license applications would be negligible and that there would be no change in the FCC's offsetting collections because noncommercial entities do not pay fees for such licenses. Provisions affecting the allocation of spectrum between low-power FM stations and FM translators could affect offsetting receipts from future spectrum auctions, but CBO estimates that those changes are unlikely to affect proceeds from the auctions that will be held before the FCC's authority to auction the spectrum expires at the end of 2013.

H.R. 1147 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). To the extent that public entities choose to apply for and develop new radio stations, they would voluntarily incur some costs.

The bill could, however, impose a private-sector mandate, as defined in UMRA. According to the FCC, 15 low-power FM radio stations are currently licensed to broadcast on frequencies within two channels of another channel. If any of those existing licenses were to be invalidated, the bill would impose a private-sector mandate. Because the number of licenses that may be affected is small, and the stations are noncommercial, CBO estimates that the cost of the mandate, if imposed, would fall well below the annual threshold established in UMRA for private-sector mandates (\$139 million in 2009, adjusted annually for inflation).

The CBO staff contact for this estimate is Susan Willie. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This Act is entitled the "Local Community Radio Act of 2009".

Section 2. Findings

Sets forth the bill's findings regarding LPFM radio services.

Section 3. Amendment

Amends section 632 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 2001 to remove the minimum distance separation requirement

for the operation of LPFM stations on third-adjacent channels while preserving the language prohibiting operators of unlicensed radio stations from obtaining an LPFM license. The bill also retains the invalidation of any LPFM license that was issued prior to, and inconsistent with, the modifications required by the Appropriations Act at the time of its original passage in 2001. The bill directs the FCC to prescribe protection for co-channels and first- and second-adjacent channels. In doing so the Committee intends the FCC to consider either the minimum distance separation methodology or contour-based methodology, whichever is appropriate.

Section 4. Minimum distance separation requirements

Directs the FCC to modify its rules to eliminate third-adjacent minimum distance separation requirements between LPFM stations and full-power FM stations and FM translator and booster stations.

Section 5. Protection of radio reading services

Directs the FCC to retain its rules adopted in 2000 that provide third-adjacent channel protection for full-power noncommercial FM stations that broadcast radio reading services via a subcarrier frequency from potential interference by LPFM stations.

Section 6. Ensuring availability of spectrum for LPFM stations

Directs the FCC to ensure, when licensing FM translator and LPFM stations, that there is enough spectrum for both FM translator and LPFM stations, taking into consideration the needs of the local community.

Section 7. Protection of translator input signals

Requires the FCC to modify its rules concerning the protection of input signals of FM translator stations by implementing a formula described in the technical report entitled Experimental Measurements of the Third-Adjacent Channel Impacts of Low-Power FM Stations, Volume One: Final Report, authored by the Mitre Corporation and published in May 2003. The formula prescribes the minimum LPFM-to-translator separation needed to address the potential for predicted interference to a translator's input signal.

Section 8. Ensuring effective remediation of interference

Requires the FCC to modify the interference complaint process for LPFM stations constructed on a third adjacent-channel. For a period of one year after an LPFM station is constructed on a third adjacent-channel, the LPFM station is required to broadcast periodic announcements that alert listeners of potential interference and instructing them to report any such interference. The LPFM station is required to notify the FCC and all affected stations on third-adjacent channels of interference complaints and cooperate in addressing any such interference, including with respect to complaints based on interference to a full-service FM station, an FM translator station, or an FM booster station. To the extent possible, the FCC must grant LPFM stations located on third-adjacent channels the technical flexibility to remediate interference through the collocation of the transmission facilities of the LPFM station and any stations on third-adjacent channels. The FCC must also permit

the submission of informal evidence of interference, accept complaints based on interference to a full-service or FM translator station by an LPFM station at any distance from the full-service or FM translator station, and accept complaints of interference to reception on mobile devices.

EXPLANATION OF AMENDMENTS

During Subcommittee consideration of H.R. 1147, an amendment in the nature of a substitute was offered as a manager's amendment by Rep. Doyle, based on discussions with technical experts and stakeholders. The amendment made several changes to the bill.

Instead of repealing section 632 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 2001 in its entirety, the substitute amended section 632 to remove the minimum distance separation requirement for third-adjacent channels while preserving the language prohibiting operators of unlicensed radio stations from obtaining an LPFM license. The substitute also retained the invalidation of any LPFM license that was issued prior to, and inconsistent with, the modifications required by the Appropriations Act. The substitute also clarified that the protection of radio reading services is limited to those carried by an analog subcarrier frequency.

Additionally, the substitute created a new section 7, requiring the FCC to modify its rules to avoid potential interference of a translator's input signal. Finally, the substitute added a new section 8 requiring the FCC to modify the interference complaint process for LPFM stations constructed on a third adjacent-channel.

No amendment was offered during the full Committee consideration of H.R. 1147.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 632 OF THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2001

[SEC. 632. (a)(1) The Federal Communications Commission shall modify the rules authorizing the operation of low-power FM radio stations, as proposed in MM Docket No. 99–25, to—

[(A) prescribe minimum distance separations for third-adjacent channels (as well as for co-channels and first- and second-adjacent channels); and

[(B) prohibit any applicant from obtaining a low-power FM license if the applicant has engaged in any manner in the unlicensed operation of any station in violation of section 301 of the Communications Act of 1934 (47 U.S.C. 301).

[(2) The Federal Communications Commission may not—

[(A) eliminate or reduce the minimum distance separations for third-adjacent channels required by paragraph (1)(A); or

[(B) extend the eligibility for application for low-power FM stations beyond the organizations and entities as proposed in MM Docket No. 99–25 (47 CFR 73.853), except as expressly authorized by an Act of Congress enacted after the date of the enactment of this Act.

[(3) Any license that was issued by the Commission to a low-power FM station prior to the date on which the Commission modifies its rules as required by paragraph (1) and that does not comply with such modifications shall be invalid.

[(b)(1) The Federal Communications Commission shall conduct an experimental program to test whether low-power FM radio stations will result in harmful interference to existing FM radio stations if such stations are not subject to the minimum distance separations for third-adjacent channels required by subsection (a). The Commission shall conduct such test in no more than nine FM radio markets, including urban, suburban, and rural markets, by waiving the minimum distance separations for third-adjacent channels for the stations that are the subject of the experimental program. At least one of the stations shall be selected for the purpose of evaluating whether minimum distance separations for third-adjacent channels are needed for FM translator stations. The Commission may, consistent with the public interest, continue after the conclusion of the experimental program to waive the minimum distance separations for third-adjacent channels for the stations that are the subject of the experimental program.

[(2) The Commission shall select an independent testing entity to conduct field tests in the markets of the stations in the experimental program under paragraph (1). Such field tests shall include—

[(A) an opportunity for the public to comment on interference; and

[(B) independent audience listening tests to determine what is objectionable and harmful interference to the average radio listener.

[(3) The Commission shall publish the results of the experimental program and field tests and afford an opportunity for the public to comment on such results. The Federal Communications Commission shall submit a report on the experimental program and field tests to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than February 1, 2001. Such report shall include—

[(A) an analysis of the experimental program and field tests and of the public comment received by the Commission;

[(B) an evaluation of the impact of the modification or elimination of minimum distance separations for third-adjacent channels on—

[(i) listening audiences;

[(ii) incumbent FM radio broadcasters in general, and on minority and small market broadcasters in particular, including an analysis of the economic impact on such broadcasters;

[(iii) the transition to digital radio for terrestrial radio broadcasters;

[(iv) stations that provide a reading service for the blind to the public; and

[(v) FM radio translator stations;

[(C) the Commission's recommendations to the Congress to reduce or eliminate the minimum distance separations for third-adjacent channels required by subsection (a); and

[(D) such other information and recommendations as the Commission considers appropriate.]

SEC. 632. (a) The Federal Communications Commission shall modify the rules authorizing the operation of low-power FM radio stations, as proposed in MM Docket No. 99-25, to—

(1) prescribe protection for co-channels and first- and second-adjacent channels; and

(2) prohibit any applicant from obtaining a low-power FM license if the applicant has engaged in any manner in the unlicensed operation of any station in violation of section 301 of the Communications Act of 1934 (47 U.S.C. 301).

(b) Any license that was issued by the Commission to a low-power FM station prior to the date on which the Commission modifies its rules as required by subsection (a) and that does not comply with such modifications shall be invalid.